

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO.: 05-10088 MBB

JULIANNE MARIE EVANS, *
 *
 Plaintiff, *
 *
 *
vs. *
 *
 *
NANTUCKET COMMUNITY *
SAILING, INC., a Massachusetts *
Corporation, RONAN O'SIOCHRU *
and DONNCHA KIELY, *
 *
 Defendants. *

**PLAINTIFF'S MOTION TO COMPEL REIMBURSEMENT OF
EXPENSES AND REQUEST FOR ATTORNEYS' FEES AND COSTS**

The plaintiff moves that the court enter an order compelling the defendants to reimburse the expenses incurred by the plaintiff in attending a four day medical examination by defendants' medical expert, pursuant to an agreement of the parties. In addition, because the defendants' insurer has acted with such intransigence and bad faith in this matter, the plaintiff requests an award of attorneys' fees and costs incurred in bringing this motion. Although the plaintiff is extremely reluctant to trouble the court with such a matter that should be easily resolved between parties, the plaintiff has no alternative but to file this motion.

In support of this motion, plaintiff states as follows:

1. In June 2006, the parties agreed that the plaintiff would travel from her home in Florida to attend a four day examination by defendants' medical expert, Dr. Henkin, in Washington, DC. In an exchange of correspondence, the parties agreed that the defendants would be responsible for plaintiff's reasonable expenses and that a request for

reimbursement would be submitted to defendants after the examination. See Exhibits “A”, “B” and “C”.

2. The plaintiff duly attended the medical examination from July 28-31, 2006.
3. On August 23, 2006, plaintiff’s counsel forwarded to defense counsel Ms. Evans’ request for reimbursement of \$1,710.52 together with receipts. The plaintiff was able to secure lodging in Washington, DC at the very reasonable rate of \$159.00 per night due to a relationship with the Marriott hotel chain. See Exhibit “D”.
4. Payment was not forthcoming from defendants’ insurer and several informal inquiries were made by plaintiff’s counsel to defendants’ counsel without success.
5. Finally, on October 3, 2006, plaintiff’s counsel indicated that plaintiff would have no alternative but to file a motion to compel if payment were not forthcoming. Counsel discussed the matter in a chain of emails which are attached as Exhibit “E”.
6. On October 6, 2006, defendants’ counsel indicated in a telephone conversation with plaintiff’s counsel that the insurer intended to cut the reimbursement amount by about \$100.00. A general description of the reason for the proposed cut was provided by defense counsel. Plaintiff’s counsel requested a written explanation and asked that the matter be reconsidered by the insurer, particularly in light of the very favorable hotel rate secured by the plaintiff. Defense counsel indicated that a response would be provided on October 9, 2006.
7. No response has been provided.
8. Ms. Evans fully cooperated with the defendants by agreeing to attend a medical examination of unprecedented length and duly submitted her verified statement of expenses in timely fashion. In return, the insurer has delayed, acted in bad faith and failed, at every juncture, to meet its end of the bargain. For these reasons, plaintiff

requests that the court enter an order compelling the defendants to submit the reimbursement forthwith, to pay any financing charges Ms. Evans has incurred due to the defendants' delay and to award plaintiff reasonable attorneys' fees associated with bringing the motion.

The Plaintiff,
By Her Attorneys,

s/Alan L. Cantor
Edward M. Swartz
B.B.O. No. 489540
Alan L. Cantor
B.B.O. No. 072360
David P. Angueira
B.B.O. No. 019610
Swartz & Swartz
10 Marshall Street
Boston, MA 02108
(617) 742-1900

CERTIFICATE OF SERVICE

I, Alan L. Cantor, Esq. do hereby certify that the foregoing document was served on the following counsel on this date and in the manner specified herein:

Electronically Serviced Through ECF:

Terrence Kenneally, Esq.
Thomas J. Muzyka, Esq.
Clinton & Muzyka
1 Washington Mall
Boston, MA 02108

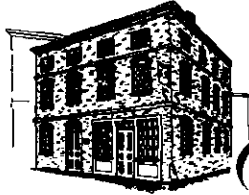
Steven D. Miller, Esq.
817 S. University Drive, Suite 122
Plantation, FL 33324

Jeffrey A. Miller, Esq.
2424 N. Federal Highway, Suite 314
Boca Raton, FL 33431

Richard A. Gargiulo, Esq.
Gargiulo, Rudnick & Gargiulo
66 Long Wharf
Boston, MA 02110

This 13th day of October, 2006.

s/Alan L. Cantor
Alan L. Cantor



The John & Ebenezer Hancock House on The Freedom Trail

NUMBER TEN MARSHALL ST., BOSTON, MASSACHUSETTS 02108

617-742-1900

FAX 617-367-7193

acantor@swartzlaw.com

June 2, 2006

Thomas J. Muzyka, Esq.
Clinton & Muzyka
1 Washington Mall
Boston, MA 02108

RE: Evans v. Nantucket Community Sailing, Inc.

Dear Tom:

Thank you for speaking with me yesterday regarding this matter. You indicated that you wish to retain Dr. Henken as your expert notwithstanding the contact Ms. Evans has had with his organization. We are prepared to agree to this with the following understandings:

1. Ms. Evans would keep her current appointment of July 28-31. Your client would be responsible for all of her reasonable expenses associated with this appointment;
2. Dr. Henken's report and all underlying data and other materials in his file will be produced as soon as practicable following the exam;
3. Dr. Henken will be produced for deposition as soon as practicable following production of the materials referred to in Paragraph 2 above;
4. Depending on Dr. Henken's conclusions, it may be necessary for the plaintiff to retain her own expert. To the extent this is necessary and to the extent an examination cannot be scheduled sufficiently in advance of the discovery deadline to allow for completion of discovery, the defendants agree to assent to a reasonable extension of the discovery deadline for this purpose.

Please let me have your thoughts on these matters.

Very truly yours,

Alan L. Cantor

ALC:krq
Via Telefax:

EXHIBIT "A"

CLINTON & MUZYKA, P.C.

ATTORNEYS AT LAW
ONE WASHINGTON MALL, SUITE 1400
BOSTON, MASSACHUSETTS 02108

THOMAS B. CLINTON
THOMAS J. MUZYKA
ROBERT E. COLLINS*
KENNETH M. CHIARELLO
TERENCE G. KENNEDY
ARTHUR P. SEARMEAS**
Of Counsel

June 5, 2006

VIA FACSIMILE & U.S. MAIL

TELEPHONE
(617) 723-9165
FACSIMILE
(617) 720-3489
E-MAIL:
csm@clintonmuzyka.com

*Also admitted in RI
**Also admitted in NH

Swartz and Swartz
10 Marshall Street
Boston, MA 02108

Attention: Alan L. Cantor, Esq.

Re: Julianne Evans vs.
Nantucket Community Sailing, Inc.
Civil Action No. 05-10088

Dear Mr. Cantor:

We refer to the above matter, your letters dated June 1 and June 2, 2006, your recent telephone conversation with Attorney Muzyka, and reply that we agree, in part, with your proposal concerning the defendants' retention of Dr. Robert I. Henkin as their medical expert.

We counter your proposal by suggesting that after Dr. Henkin examines the plaintiff and produces his report that your office examine his report and determine whether the plaintiff will rely on the report or conclude that additional medical expert opinions are required for the plaintiff's interests. If the plaintiff decides to rely on Dr. Henkin's opinions as issued, we agree that his deposition should be noticed soon thereafter.

If the plaintiff wishes to retain her own medical expert after reviewing Dr. Henkin's report then she should retain the expert as soon as practicable. We presume that the plaintiff will then undergo a second examination and a written report concerning the examination will be produced to the defendants.

EXHIBIT "B"

FROM

Case 1:05-cv-10088-MBB Document 62-1 Filed 09/29/2006 Page 2 of 2
MON JUN 5 2006 12:34 PM 12.35 PM 0337455129 P 3

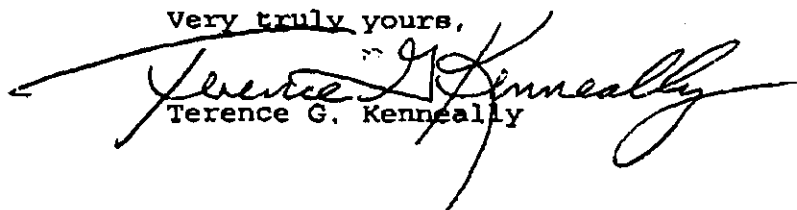
2

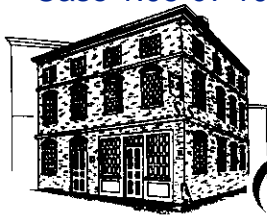
We presume that the plaintiff's medical expert will then be deposed followed by the defendants' medical expert as is the usual practice in the Federal Court.

If the present discovery schedule requires modification to accommodate the scheduling of the plaintiff's examination and the medical expert depositions, the defendants will be willing to submit a joint motion requesting the Court for an extension of time.

If you have any questions concerning the above, please do not hesitate to advise. We look forward to receiving your reply.

Very truly yours,


Terence G. Kenneally



ATTORNEYS AT LAW

The John & Ebenezer Hancock House on The Freedom Trail

NUMBER TEN MARSHALL ST., BOSTON, MASSACHUSETTS 02108

617-742-1900 . FAX . 617-367-7193

acantor@swartzlaw.com

June 5, 2006

Terrence Kenneally, Esq.
Clinton & Muzyka
1 Washington Mall
Boston, MA 02108

RE: Evans v. Nantucket Community Sailing, Inc.

Dear Mr. Kenneally:

Thank you for your letter of today. We are in agreement with your proposal. Accordingly, I suggest that we regard my letter of June 2, 2006, modified by your letter of today, as the agreement of the parties. We presume that you will contact Dr. Henkin's office to explain recent events and advise. I have instructed Ms. Evans not to communicate further with Dr. Henkin or his facility.

Thank you.

Very truly yours,

Alan L. Cantor

ALC:krq
Via Telefax and mail

EXHIBIT "C"



The John & Ebenezer Hancock House on The Freedom Trail

NUMBER TEN MARSHALL ST., BOSTON, MASSACHUSETTS 02108

617-742-1900 · FAX · 617-367-7193

EMAIL · ATTORNEY@SWARTZLAW.COM

WEBSITE · WWW.SWARTZLAW.COM

acantor@swartzlaw.com

August 23, 2006

Terrence Kenneally, Esq.
Clinton & Muzyka
1 Washington Mall
Boston, MA 02108

RE: Evans v. Nantucket Community Sailing, Inc.

Dear Mr. Kenneally:

Please find enclosed Ms. Evans' expense report relating to her medical examination. Kindly forward a reimbursement check made payable to her to this office.

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Alan L. Cantor".

Alan L. Cantor

ALC:krq
Enc.

EXHIBIT "A"

Julianne Evans - Expense Report

Washington Taste & Smell Center – July 27-31, 2006

EXPENSES:

Airfare:	\$ 218.60	
Return Airfare Overweight Luggage charge Due to extra 15 lbs of Xrays, CT's, MRI Films in baggage Henkin would not mail back to Kenneally:	\$ 50.00	
Hotel:	\$ 866.84	\$159/night plus tax and parking
Rental Car:	\$ 227.74	
Gasoline:	\$ 31.01	
Meals:		
Thursday, July 27		
Lunch	\$ -0-	Didn't eat lunch
Dinner	\$ 52.96	McCormick & Schmick
Friday, July 28		
Breakfast	\$ -0-	Required to Fast by Dr. Henkin
Lunch	\$ 9.00	Cash – No Receipt – Einstein Bagels
Dinner	\$ -0-	Ordered room service – included on hotel bill
Saturday, July 29		
Breakfast	\$ 13.28	Einstein Bagels
Lunch	\$ 25.74	McGarvey's
Dinner	\$ 88.93	Carrol's Creek Cafe
Sunday, July 30		
Breakfast	\$ 6.50	Cash – No Receipt - Einstein Bagels
Lunch	\$ 41.40	The Wharf Restaurant
Dinner	\$ -0-	Ate snacks at hotel due to late lunch
Monday, July 31		
Breakfast	\$ 8.50	Cash – No Receipt – Einstein Bagels
Lunch	\$ 38.02	The Wharf Restaurant
Dinner	\$ -0-	No dinner due to late lunch
Parking:	\$ 9.00	
Taxi Cabs:	\$ 17.00	Cash - Was afraid of not finding parking so I took a cab to dinner on 7/27/06
Tips:	\$ <u>6.00</u>	Cash - Baggage Porters; Didn't tip valet parking guys due to \$28.00/night valet parking fee added to hotel bill
Total:	\$ <u>1,710.52</u>	

Please reimburse ASAP to: **Julianne Evans**
C/O Prudential Florida WCI Realty
1137 S. University Drive
Plantation, FL 33324

Thank you for reimbursing immediately so as not to incur finance charges on credit card.

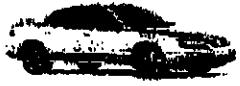
US Airways Travel Confirmation

Page 1 of 2

ML2YKA

Reminder: AOL will never ask you to send us your password or credit card number in an email. This message has been scanned for known viruses.

From: reservations@myusairways.com
 To: jujuinfla@aol.com
 Subject: US Airways Travel Confirmation
 Date: Mon, 17 Jul 2006 3:24 PM

US AIRWAYS <i>Fly with us.</i>		Travel Confirmation																			
Save Airport Time: <ul style="list-style-type: none"> Web Check-in Airport Kiosk Baggage Policies International Travel 		Travel Confirmation: VARTPU Thank you for flying US Airways. Your purchase is now complete and your reservation has been electronically ticketed. No paper tickets will be sent. For customer assistance, please call 800-428-4322.																			
Quick Links: <ul style="list-style-type: none"> Purchase Tickets Car Reservations Hotel Reservations Travel Protection 		<table border="1"> <tr> <td>CONFIRMATION</td> <td>VARTPU</td> </tr> <tr> <td>Date Issued</td> <td>07/17/06 at 11:57 AM</td> </tr> <tr> <td>Form of Payment</td> <td>MasterCard *****7240</td> </tr> <tr> <td>Grand Total</td> <td>\$218.60</td> </tr> </table>		CONFIRMATION	VARTPU	Date Issued	07/17/06 at 11:57 AM	Form of Payment	MasterCard *****7240	Grand Total	\$218.60										
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Dividend Miles: <ul style="list-style-type: none"> Enroll View My Account Preferred Program Earn More Miles Use My Miles Purchase/Gift Miles Program Details Credit Cards Star Alliance US Airways Club Upgrades 		 <p>FREE UPGRADE plus 1,000 miles!</p> <p>GO AVIS</p>																			
		Cancellation/Interruption Protection Access America can help protect you from losing prepaid deposits and paying additional expenses caused by unexpected cancellations or trip interruptions. Put your mind at ease - buy your coverage now!																			
		Passenger Information <table border="1"> <thead> <tr> <th>Party of 1</th> <th>Dividend Miles #</th> <th>Ticket #</th> <th>Seat #</th> </tr> </thead> <tbody> <tr> <td>JULIANNE EVANS</td> <td>L017D02</td> <td>40121805824855</td> <td>**, **</td> </tr> </tbody> </table>		Party of 1	Dividend Miles #	Ticket #	Seat #	JULIANNE EVANS	L017D02	40121805824855	**, **										
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Fare	\$184.19																				
Taxes & Fees	\$34.41																				
Grand Total	\$218.60																				

ENTERPRISE
RENT-A-CAR

REAGAN NATIONAL APT (OFF-SITE)
2020 JEFFERSON DAVIS HWY
ARLINGTON, VA 222023601
(703) 553-7744
BRANCH: 1615
TICKET: 783864

JULIANNE EVANS
OUT: 07/27/2006 0253 PM
IN: 07/31/2006 0521 PM
VEHICLE: 06 PONT
VEHICLE LICENSE: J299713

4	Spa	164.96
8	Spa	16.65
8.750	GALLON	21.63
Sales Tax	18.0062	16.50
TOTAL		227.74

\$227.74

CHARGE TO: MC XXXXXXXXXX EXPIRES: xx/xx

THANK YOU FOR RENTING FROM
ENTERPRISE RENT-A-CAR
TO RESERVE A CAR USE:
1 (800) RENT-A-CAR
OR
WWW.ENTERPRISE.COM

For questions regarding this folio,
please call Marriott Business Services
toll-free 1-866-435-7827.

JW MARRIOTT.
PENNSYLVANIA AVENUE

1331 Pennsylvania Avenue, N.W.
Washington, DC 20004
Telephone (202) 393-2000
Facsimile (202) 626-6991
Marriott.com/WASJW

GUEST FOLIO

1489 EVANS/JULIANNE

159.00 07/31/06 14:00 15381

OKG MR CONC

RATE 07/27/06 16:09

ACCT#

**136 200 JAGARANDA
PLANTATION FL
33324**

**PASSPORT# 715 TIME
BKXXXXXXXXXXXX3104**

MR#:

ROOM CLERK	ADDRESS	PAYMENT	CHARGES	CREDITS	BALANCE DUE
07/27	ROOM	1489, 1	159.00		
07/27	ROOMTX	1489, 1	23.06		
07/27	PARKING	VALET 1	28.00		
07/28	STARBUCK	80101489	3.50		
07/28	RMSERV	73341489	23.10		
07/28	ROOM	1489, 1	159.00		
07/28	ROOMTX	1489, 1	23.06		
07/28	PARKING	VALET 1	28.00		
07/29	ROOM	1489, 1	159.00		
07/29	ROOMTX	1489, 1	23.06		
07/29	PARKING	VALET 1	28.00		
07/30	PARKING	VALET 1	28.00		
07/30	ROOM	1489, 1	159.00		
07/30	ROOMTX	1489, 1	23.06		

866.84

EXP. REPORT SUMMARY

07/27	ROOMTAX	182.06
	PARKING	28.00
07/28	STARBUCK	3.50
	RMSERV	23.10
	ROOMTAX	182.06
	PARKING	28.00
07/29	ROOMTAX	182.06
	PARKING	28.00
07/30	PARKING	28.00
	ROOMTAX	182.06

This statement is your only receipt. You have agreed to pay in cash or by approved personal check or to authorize us to charge your credit card for all amounts charged to you. The amount shown in the credits column opposite any credit card entry in the reference column above will be charged to the credit card number set forth above. (The credit card company will bill in the usual manner.) If for any reason the credit card company does not make payment on this account, you will owe us such amount. If you are direct billed, in the event payment is not made within 25 days after check-out, you will owe us interest from the check-out date on any unpaid amount at the rate of 1.5% per month (ANNUAL RATE 18%), or the maximum allowed by law, plus the reasonable cost of collection, including attorney fees.

This statement is a summary of your current charges. If you need assistance with luggage, our bellstand can be reached at extension 00.

CHECK OUT TIME IS 12:00 NOON

Please see reverse side for check out options.

EXXON EXPRESS PAY

HARBOUR WAY EXXON
16450 HARBOUR WAY
BOWIE, MD. 20716

DLR# 4698328
HARBOUR WAY EX
BOWIE MD
07/27/06 16:25

```
MasterCard X3104 310
INUM M4U3844
AUTH# 027079
PUMP# 12
Regular 8.205G
SELF
PRICE/GAL $3.169
FUEL TOTAL $26.00
```

TOTAL **\$26.00**

HARBOUR WAY EXXON
16450 HARBOUR WAY
BOWIE, MD 20716

-THANK YOU-

[illegible]

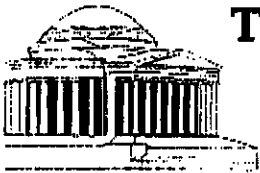
Colonial Parking
101N LEE ST
ALEXANDERIA

```

Fee Computer Number:          3
Cashier:                      2 ID #2
Transaction Number:          153213
Entered:                     07/30/06 12:30
Exited:                      07/30/06 16:52
Ticket #63772                Dispenser #5
Rate:                        Normal Rate A
Total Fee:                   $9.00
Cash:                        $9.00

```

Thank you for choosing
Colonial Parking
Have a nice day



TAXICAB RECEIPT

Time: 7:20 PM
Date: 7/27/06

Origin of trip: TW Marriott

Destination: McCormick & Schmick

fare: \$ 9.00 Sign: JK



Taxi Cab Receipts

DATE: 7/27/06 TIME: 9:35 pm

TRIP ORIGIN: McCormick & Schmiedke

DESTINATION: JW Marriott

FARE: \$ 8.00 SIGNATURE Or

DATE 7/27/08 TIME 9:29PM
MID 306726040733

McCormick & Schmick
F Street
Washington, D.C.
20004
202-639-9330

PLEASE SIGN AND LEAVE THE MERCHANT COPY
THE CUSTOMER COPY IS YOURS TO TAKE

MASTER XXXXXXXXXXXXXXXX3104 S
AUTH 060062 TBL 405 CHECK 36053
PURCHASE DINING S JUSTIN

AMOUNT	39.05
TAX	3.91

SUBTOTAL \$ 42.96

TIP \$.....10.00

TOTAL \$.....52.96

CUSTOMER COPY

[illegible]

THURS. EVENING

Annapolis MD
 410-263-5700
 Daily Specials on the web
 @ www.mcgarveys.net
 Date: Jul 29 '06 06:59PM
 Card type: M.C.
 Card #: XXXXXXXX3104
 Exp Date: 03/09
 Auth Code: 083271
 Check #: 2044
 Check ID: CAB2
 Server: 308 Hersi
 Ref Number: 62102275403
 by Table: EVANS

Annapolis MD
 410-263-5700
 Daily Specials on the web
 @ www.mcgarveys.net
 308 Hersi
 Chk 2044 CAB2
 Jul 29 '06 06:54PM
 Gst 0

1 Juice 2.85
 1 Crab Ball 10.75
 1 Cabernet 6.15

Subtotal 19.75
 Tax 0.99
 06:59PM Total 20.74

Gratuity
Not Included

Thank you for joining us today.

Total 20.74
 5.00
 25.74
 Signature: *[Signature]*
 Signature

I agree to pay the above total
 according to my card issuer
 agreement.

SATURDAY

Einstein Bros Bagels
 1996
 7/29/06 1:27:06 PM
 Eat In
 Order Number: 1249906

1 Cup Soup 2.89
 1 Spinach Tomato Omelet Bundle 4.59
 1 Spicy Elmo Bundle 4.59

Sub. Total: 12.07
 Tax: 1.21
 Total: 13.28
 Discount Total: 0.00

Change 0.00
 Master Card: -13.28

Start your day with a Spicy Elmo
 egg sandwich and a medium cup of darn
 good coffee, just \$4.59 for a limited time
 only at Einstein Bros. Bagels.

Master Card
 Card Num : XXXXXXXXXXXX3104
 Terminal : 1111494364001
 Approval : 000580
 Sequence : 028804

I agree to pay the above Total Amount
 according to Card Issuer Agreement.

Signature: _____

SAT

CARROL'S CREEK
(410)263-8102

Date: 07/29/2006 Time: 10:09:31 PM

Card Type: Master Card
Card Number: XXXXXXXXXX3194
Expiration Date: 03/31/2009
Server Name: MARION
Check Number: 219131

Card Owner: EVANS/JULIANNE

AMOUNT 71.93

TIP

TOTAL

Approval: 011067

IF YOU HAVE PAID BY USING A BANK
DEBIT CARD THERE WILL BE AN EXTRA
TRANSACTION THAT MAY APPEAR ON
YOUR ONLINE ACCOUNT. THIS IS JUST
A VERIFICATION AND WILL DISAPPEAR
WITHIN 24 HOURS. THIS PROCESS
ONLY APPLIES TO DEBIT CARDS AND IS
A FUNCTION OF THE CREDIT
CARD PROCESSOR.

RETAIN THIS COPY FOR YOUR RECORDS

SATURDAY EVE.

CARROL'S CREEK

Dining Room

Date :07/29/2006 Check# :219131
Time :10:04:28 PM Table# :405
Server #: 131
Person# : 1
Opened: 7:49:00 PM Closed: N/A

1	SCALLOPS APPETIZER	13.50
1	MAHI MAHI ENTREE	38.00
1	CH ST MICHELLE SB GLASS	7.00
1	SEGHESIO ZIN GLASS	10.00

SUB TOTAL 68.50

Sales Tax 3.43

TOTAL 71.93

THANK YOU!
MARION

0039

Servers: CHAT T Recs: 24
07/30/06 13:25, Swiped Terminal: 4

THE WHARF RESTAURANT
119 KING STREET
ALEXANDRIA, VA 22314
(703)836-2836
MERCHANT #:

CARD TYPE ACCOUNT NUMBER
MASTER CARD XXXXXXXXXXXX3104
Name: julianne evans
00 TRANSACTION APPROVED
AUTHORIZATION #: 082786
Batch #: 609 Sequence #: 23
Reference: 073010039

CHECK: 34.40

TIP: 7.00

TOTAL: 41.40

THE WHARF
OLD TOWN'S SEAFOOD RESTAURANT

0039 Table 21
CHAT T SvrCh: 9 14:51 07/30/06
DOWNSTRS DINING

1 COKE	2.50
1 DIET COKE	2.50
1 CRABCAKE APPETIZ	11.95
1 SCALLOP ROLL	9.95
1 MISC FOOD, how much?	4.95,
LINGUINI	4.95

Sub Total: 31.95
TAX: 2.55

07/30 15:20 TOTAL 34.40

X

PHONE: ()
CARDHOLDER WILL PAY CARD ISSUER ABOVE
AMOUNT PURSUANT TO CARDHOLDER AGREEMENT
Thank You!!
SIGNED COPY ----- MERCHANT
Duplicate Copy

SUNDAY

0043

Server: AMY B Rec: 11
07/31/06 16:46, Swiped Terminal: 1

THE WHARF RESTAURANT
117 KING STREET
ALEXANDRIA, VA 22314
(703)334-2833
MERCHANT #:

CARD TYPE ACCOUNT NUMBER
MASTECARD XXXXXXXXXXXX3164
Name: JULIANNE EMMIS
DO TRANSACTION APPROVED
AUTHORIZATION #: 012082
Batch #: 811 Sequence #: 9
Reference: 07310043

THE WHARF
OLD TOWN'S SEAFOOD RESTAURANT

0043 Table: 18
AMY B SwCh: 17 16:18 07/31/06
DOWNSTRS DINING

1 DIET COKE 2.50
1 D-CRABCAKES ENT.,
Sub: Spawack 27.15

Sub Total: 29.65

TAX: 2.37

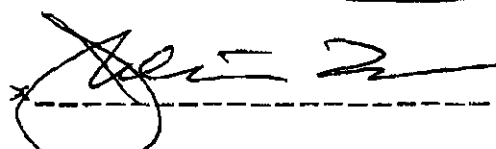
07/31 16:18 TOTAL: 32.02

CHECK: 32.02

TIP: 6.00

TOTAL:

38.02

* 
PIN: { }
CARDHOLDER WILL PAY CARD ISSUER ABOVE
AMOUNT PURSUANT TO CARDHOLDER AGREEMENT
Thank You!!
SIGNED COPY ----- MERCHANT

MONDAY

Alan Cantor

From: Alan Cantor
Sent: Friday, October 06, 2006 1:03 PM
To: 'Terence G. Kenneally'
Subject: RE: Evans

Terry, when you speak to the adjuster on Monday (or do you think it will be Tuesday because Monday is a holiday?), please mention that Ms. Evans was able to get a special rate at the Marriott due to a connection she has which she believes saved the insurer about \$180/night. I am hopeful your client will reconsider as it will be unnecessarily expensive and time consuming for us to litigate a motion over \$100. Not to mention that I'm sure the court would not be pleased with counsel for failing to resolve the matter without court assistance. Thanks.
Alan Cantor.

From: Terence G. Kenneally [mailto:tkenneally@clinmuzyka.com]
Sent: Friday, October 06, 2006 9:27 AM
To: Alan Cantor
Subject: RE: Evans

Dear Alan,

Further to our telephone conversation this morning about the plaintiff's expenses reimbursement, please be advised that the insurance adjuster is out of the office until Monday.

I will be in Monday so I will follow-up with her about the expenses reimbursement.

Accordingly, we request that you refrain from filing a motion to compel until we can speak with the insurance adjuster.

Very truly yours,

Terence G. Kenneally
Clinton & Muzyka, P.C.
One Washington Mall, Suite 1400
Boston, MA 02108
Tel: 617-723-9165
Fax: 617-720-3489
Email: tkenneally@clinmuzyka.com

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From: Terence G. Kenneally
Sent: Tuesday, October 03, 2006 2:16 PM
To: 'Alan Cantor'
Subject: RE: Evans

10/13/2006

EXHIBIT "E"

Dear Alan,

We can conduct the deposition at Dr. Henkin's office.

Thanks,

Terence G. Kenneally
Clinton & Muzyka, P.C.
One Washington Mall, Suite 1400
Boston, MA 02108
Tel: 617-723-9165
Fax: 617-720-3489
Email: tkenneally@clinmuzyka.com

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From: Alan Cantor [<mailto:acantor@swartzlaw.com>]

Sent: Tuesday, October 03, 2006 1:48 PM

To: Terence G. Kenneally

Subject: RE: Evans

I'm all set for 11/1 at 2:00. Does Dr. Henkin want to do the depo at his office? Thanks. Alan.

From: Terence G. Kenneally [<mailto:tkenneally@clinmuzyka.com>]

Sent: Tuesday, October 03, 2006 11:48 AM

To: Alan Cantor

Subject: RE: Evans

Dear Alan,

Further to the voicemail messages that I left for you today, please be advised that I spoke with Dr. Henkin concerning the scheduling of his deposition. He is available the afternoon of October 11, 2006 because his previous appointment was canceled.

However, our schedule conflicts with that date. Therefore, we scheduled the deposition of Dr. Henkin for Wednesday, November 1, 2006 at 2:00 p.m. provided that the time and date meets your schedule. Please advise whether we can depose Dr. Henkin on November 1st at 2:00 p.m.

In addition, we consulted with our client's insurer. The adjuster advised that a response to Ms. Evans' request for reimbursement will be provided on or before Friday of this week.

Accordingly, we request that you refrain from filing any motions to compel.

10/13/2006

Very truly yours,

Terence G. Kenneally
Clinton & Muzyka, P.C.
One Washington Mall, Suite 1400
Boston, MA 02108
Tel: 617-723-9165
Fax: 617-720-3489
Email: tkenneally@clinmuzyka.com

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From: Alan Cantor [<mailto:acantor@swartzlaw.com>]
Sent: Tuesday, October 03, 2006 10:09 AM
To: Terence G. Kenneally
Subject: Evans

Terry, if I do not have your assurance today that an expense check is being issued, I will have no alternative but to file a motion to compel and ask for costs. Also, I need a date for Henkin's deposition by today or I will file a motion to compel his deposition. Thank you for your immediate attention to these matters. Alan Cantor.

Alan L. Cantor, Esq.
Swartz & Swartz
10 Marshall Street
Boston, MA 02108
617 742-1900 fax 617 367-7193

10/13/2006